

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA
WILSON DIVISION**

In re:

International Heritage, Inc.

Debtor

Case No.

98-02675-5-JRL

Chapter 11

**LIMITED OBJECTION TO ELEVENTH INTERIM APPLICATION FOR
COMPENSATION FOR SERVICES RENDERED BY ATTORNEY FOR TRUSTEE**

Now comes the Bankruptcy Administrator and herewith makes a limited objection to the Eleventh Interim Application for Compensation for Services Rendered by Attorney for Trustee and in support thereof shows the court the following:

1. Holmes P. Harden was appointed as Attorney for Trustee in this case by order entered on January 22, 1999. The trustee hired his law firm to service as attorney for trustee in the case. This bankruptcy case involved a multi-level marketing company with thousands of creditors, many of whom had signed up to become sales representatives for the company. The case involved complex litigation and a settlement with the Securities and Exchange Commission which provided for the payment of certain funds to the sales representatives.

2. The trustee, in his capacity as attorney for trustee, has been awarded \$503,726.09 in ten previous fee applications for compensation for his services as attorney for trustee, exclusive of expenses. He has received \$206,201.97 in trustee commissions and will be seeking an unknown additional amount of commission in connection with the filing of the Final Report and Proposed Distribution in the case.

3.. Although a trustee is permitted to hire his own law firm to assist him as attorney for trustee, the Code prohibits the trustee from collecting attorneys fees for services "that are generally performed by a trustee without the assistance of an attorney." 11 U.S.C. §328(b). The Bankruptcy Administrator has identified numerous time entries that appear to be administrative and ministerial in nature and should not be allowed as compensation to the attorney for trustee. These entries are identified on the attached Exhibit A. These entries total \$47,245.00. They include calculation of interim commissions to the trustee, distributions to creditors and conferences with the trustee's case management software support personnel. They also include substantial time spent on motions for unclaimed funds which did not appear to require complex legal analysis or expertise.

4. Due to the unique facts of this case, the Bankruptcy Administrator has been very liberal in recommending the approval of previously requested fees made by the Attorney for Trustee as well as the commissions requested by the Trustee. However, as the Fourth Circuit has noted, a case involving a large number of creditors may require more administrative work but it does not pose unique or complex legal issues which would allow compensation for services which "coincide or overlap with the trustee's duties and only to the extent the matters requiring legal expertise." In re J.W. Knapp Company 930 F 2d 386 at 388 (4th Cir. 1991). The compensation allowed to the trustee provided by 11 U.S.C. §326 is supposed to compensate the trustee for these types of services. The final request for administrative fees, commissions and other administrative costs of the estate have not been submitted and the total compensation that the trustee may request is unknown at this time.

Wherefore, the Bankruptcy Administrator objects to the allowance of the 11th Interim Application for Compensation for Services Rendered by Attorney for Trustee and requests that, pending final submission of the final report and proposed distribution, the attorney for trustee be limited to \$25,000.00 as interim compensation without prejudice and such other and further relief as the court deems just and proper.

Dated: January 8, 2010

S/Marjorie K. Lynch

Marjorie K. Lynch
Bankruptcy Administrator

Eastern District of North Carolina
Post Office Box 3758
Wilson, North Carolina, 27895-3758
252-237-6854

EXHIBIT A

DATE	TIME-KEEPER	DESCRIPTION OF SERVICES	HRS:	AMT:
120/1/08	JDJ	working on 2 nd distribution and interim fee applications	6.00	660.00
12/02/08	JDJ	working on 2 nd distribution of SEC fund	5.50	605.00
12/03/08	HPH	review new docket entries	.2	50.00
12/03/08	JDJ	working on fee applications and 2 nd distribution of SEC funds	5.00	550.00
12/04/08	JDJ	Work on calculations for trustee's interim compensation and calculations for payment of 2 nd distribution of SEC funds; review correspondence regarding motions to release funds and respond to same.	9.50	1,045.00
12/05/08	HPH	work on fee application; review J. Johnson's disbursement memorandum, conference with J. Johnson re: same; conference with J. Johnson finalizing fee applications	1.80	450.00
12/05/08	JDJ	work on reviewing claims for 0 balances and inputting reconsidered claims for 2 nd distribution	6.50	715.00
12/07/08	JDJ	work on spreadsheet for 2 nd distribution	7.20	792.00
12/08/08	JDJ	work on interim fee applications and interim distribution	7.50	825.00
12/09/08	HPH	revise eighth application; finalize trustee fee application; finalize commission application	1.10	275.00
12/09/08	JDJ	work on calculations for interim commission and fees and 2 nd distribution of SEC funds; telephone conferences with BA's office and Mr. Harden re: same	9.70	1,067.00
12/10/08	HPH	conference with J. Johnson re: fee applications	.20	50.00
12/10/08	JDJ	Finalize fee applications for interim fees and interim distribution; conferences with BA's office re: approval, Mr. Harden and Mark Evans re same. E-file applications with court	7.70	847.00
12/11/08	HPH	Conference with J. Johnson re: unclaimed dividend reports; review file	2.00	500.00
12/11/08	JDJ	review spreadsheet from Mark Evans for 2 nd distribution	3.00	330.00
12/12/08	JDJ	work on 2 nd distribution of SEC funds; telephone conferences with Mark Evans re same	1.50	165.00
12/15/08	JDJ	work on 2 nd distribution.	2.00	220.00
12/15/08	JDJ	work on final figures for 2 nd distribution; telephone conference with Mark Evans re same	1.50	165.00
12/15/08	JDJ	review and respond to correspondence regarding motion to release funds; work on motions for unclaimed dividends.	2.00	220.00

12/16/08	JDJ	review spreadsheet from Mark Evans re 2 nd distribution	1.20	132.00
12/17/08	JDJ	working on final review of claims and telephone conferences with Mr. Evans and Mr. Harden re distribution	7.30	803.00
12/18/08	JDJ	review correspondence and respond to same re unclaimed dividends; work on motions for unclaimed dividends; work on final revisions to submit to Portland for checks to be printed.	5.20	572.00
12/19/08	JDJ	transfer funds and issue checks for 2 nd distribution; telephone conferences with Mark Evans re same.	3.50	385.00
01/01/09	HPH	review new docket entries	.20	50.00
01/02/09	JDJ	review and respond to correspondence re unclaimed; work on motions for unclaimed dividends	8.50	935.00
01/05/09	JDJ	review and respond to correspondence re unclaimed dividends; work on motions for unclaimed dividends; telephone conference with clerk's office re Robert Otis claim; conference with Mr. Harden re same.	5.00	550.00
01/06/09	JDJ	Review correspondence re unclaimed dividends and respond to same; work on motions for unclaimed dividends from 1 st distributions; conference with clerk's office re same.	9.00	990.00
01/07/09	JDJ	work on motions for unclaimed dividends from 1 st distribution; review correspondence and respond re same.	3.00	330.00
01/08/09	HPH	review new docket entries.	.20	50.00
01/08/09	JDJ	review and respond to correspondence regarding motions to release funds work on motions for unclaimed dividends from 1 st distribution; conference with clerk's office and Mr. Harden re: same.	5.70	627.00
01/09/09 through 06/09/09	JDJ & HPH	All entries within this time frame are related to what appears to be trustee duties as opposed to attorney for trustee with the exception of .70hrs or \$175.00 which has not been included herein.	202.4	22852.00
07/07/09	JDJ	review and correspondence re motion to release unclaimed dividends; work on motions for unclaimed dividends	.90	99.00
7/14/09	JDJ	Review correspondence and respond re motion to release unclaimed dividends; work on motions for unclaimed dividends.	2.50	275.00
07/16.09	JDJ	Review correspondence and respond re motion to release unclaimed dividends; work on motions for unclaimed dividends.	1.80	198.00
07/29/09	JDJ	work on motions re unclaimed dividends.	.80	88.00
08/26/09	JDJ	work on motions for unclaimed dividends	2.00	220.00
8/28/09	JDJ	work on motions for unclaimed dividends	1.30	143.00

8/31/09	JDJ	review correspondence and respond re motion to release unclaimed dividends; work on motions for unclaimed dividends	2.50	275.00
9/01/09	JDJ	review correspondence and respond re motion to release unclaimed dividends; work on motions for unclaimed dividends.	3.00	330.00
9/09/09	JDJ	review correspondence and respond re motion to release unclaimed dividends; work on motions for unclaimed dividends.	2.00	220.00
9/15/09	JDJ	work on motions for unclaimed dividends; review correspondence re motions to release funds and respond to same	2.00	220.00
9/23/09	JDJ	work on motions for unclaimed dividends.	.70	77.00
10/12/09	JDJ	work on motions for unclaimed dividends	2.00	220.00
10/14/09	JDJ	work on motions for unclaimed dividends	1.20	132.00
10/26/09	JDJ	review and respond to correspondence re release of unclaimed funds; work on motions for unclaimed dividends	7.40	814.00
10/27/09	JDJ	review correspondence re release of unclaimed funds and respond to same; work on motions for unclaimed dividends.	5.40	594.00
10/28/09	JDJ	review correspondence re release of unclaimed funds and respond to same; work on motions for unclaimed dividends.	2.00	220.00
10/29/09	JDJ	work on motions for unclaimed dividends	1.00	110.00
10/31/09	JDJ	review and respond to correspondence re release of unclaimed funds; work on motions for unclaimed dividends.	1.00	110.00
11/31/09	JDJ	review correspondence re motions to release unclaimed dividends and respond to same; work on motions for unclaimed dividends.	4.50	495.00
11/04/09	JDJ	review correspondence re motions to release unclaimed dividends and respond to same; work on motions for unclaimed dividends; conference with Mr. Evans re same	7.00	770.00
11/05/09	JDJ	review correspondence re release of unclaimed dividends; work on motions for unclaimed dividends	4.50	495.00
11/06/09	JDJ	review and respond to correspondence re release of unclaimed dividends; work on motions for unclaimed dividends.	6.00	660.00
11/07/09	JDJ	review correspondence re release of unclaimed dividends; work on motions for unclaimed dividends.	2.50	275.00
11/08/09	JDJ	review correspondence re release of unclaimed dividends; work on motions for unclaimed dividends	7.00	770.00
11/09/09	JDJ	review and respond to correspondence re unclaimed dividends; work on motions for unclaimed dividends; conference with Mr.	5.00	550.00

		Harden re same		
11/12/09	JDJ	review correspondence re release of unclaimed dividends; work on motions for unclaimed dividends	5.80	638.00
11/13/09	JDJ	review correspondence re release of unclaimed dividends; work on motions for unclaimed dividends	1.00	110.00
11/15/09	JDJ	work on motions for unclaimed dividends; review correspondence re release of unclaimed funds and respond re same	1.00	110.00
11/16/09	JDJ	review correspondence re unclaimed dividends; work on motions for unclaimed dividends	2.00	220.00
		Total		\$47245.00

CERTIFICATE OF SERVICE

I, Lesley A. Cavanaugh, of Post Office Box 3758, Wilson, North Carolina, 27895-3758, certify:

That I am, and at all times hereinafter mentioned was, more than eighteen (18) years of age;

That on the 7th day of January, 2010 served copies of the foregoing document on the following:

by electronic service via cm/ecf

Holmes P. Harden
Attorney for Trustee
harden@williamsmullen.com

Terri Gardner
International Heritage, Inc.
c/o Terri L. Gardner
terri.gardner@nelsonmullins.com

Stephanie Wilson Humrickhouse
shumrickhouse@nichollscrampton.com

I certify under penalty of perjury that the foregoing is true and correct.

Dated this 7th day of January, 2010

s/ Lesley A. Cavanaugh
Lesley A. Cavanaugh, Paralegal, NCCP
Assistant to Bankruptcy Administrator
Eastern District of North Carolina
Post Office Box 3758
Wilson, North Carolina 27895-3758